

NEW JERSEY BROWNFIELD REDEVELOPMENT TASK FORCE

POLICY & LEGISLATIVE COMMITTEE

MINUTES OF MEETING HELD TUESDAY, MARCH 29, 2005

10:00 P.M. – 12:00 P.M.

DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
TRENTON, NEW JERSEY
OFFICE OF SMART GROWTH LIBRARY - 7TH FLOOR

Committee Members Present—

Leah Healey - Public Member – Committee Chairman
Sally Dudley, Public Member – Environmental
Michelle Hammel – NJ Department of Agriculture
Richard Gimello – New Jersey Department of Transportation
Rose Smith – New Jersey Economic Development Authority
Frances E. Hoffman – Office of Smart Growth, New Jersey Department of Community Affairs
Colleen Kokas – Site Remediation Program, NJ Department of Environmental Protection

Committee Members Not Present—

Dennis Toft, Public Member – Task Force Chairperson
William Mullen – Public Member – Labor and Trade

Other Attendees—

Cynthia Weiser, Brownfields Program Assistant

I. CALL TO ORDER & WELCOME—

Leah Healey, Chairperson of the Policy and Legislative Committee of the NJ Brownfields Redevelopment Task Force, made the welcoming remarks and called the meeting to order at 10:14 a.m.

II. ANNOUNCEMENT OF ADHERENCE TO OPEN PUBLIC RECORDS ACT—

Leah Healey read the Announcement of Adherence to Open Public Records Act

III. ROLL CALL—Cynthia Weiser, Brownfield Program Assistant, called roll. A quorum was present.

IV. APPROVAL OF MINUTES—Richard Gimello moved to approve the minutes from the January 18, 2005 meeting, Fran Hoffman seconded, and the minutes were approved.

V. COMMITTEE BUSINESS—

Discussion of Options for UEZ Incentives for Brownfields: James Simmons told the Committee that traditionally, developers of brownfield properties in UEZ areas would either attempt to directly access local municipality UEZ funds, or forego the financial benefits that the UEZ provides via reduced sales tax incentives and apply for cost reimbursement through the Commerce/Treasury Remediation Reimbursement program. More recently, Commerce & Treasury have advised developers on a case-by-case basis that brownfields incentives in urban enterprise zones can be tailored to meet individual project needs. Some developers have already missed the opportunity to access substantial funds by neglecting to investigate these possibilities for reimbursement. Restaurant, hotel, and automobile sales taxes, and in addition, taxes on tobacco and alcohol, do not go to the UEZ and can therefore be applied to the remediation reimbursement program agreement. Developers need to be made aware of these options.

Additionally, a developer may choose to apply to the Remedial Reimbursement Program in the beginning steps and later subscribe to the UEZ program. Most of the benefits a developer would

receive from UEZ occur after the construction is completed and the tenants are moving in. This staged, two-faceted approach enables developers to benefit from the incentives of both programs.

Ms Hoffman asked Mr. Simmons how much of an issue it is when the municipality or developer, or both in tandem, are planning a redevelopment area, and changes need to be made to the plan in order to generate the capital to do the cleanup. Mr. Simmons said that, in the normal part of the qualification process for a redevelopment agreement, it is a requirement that the project has a municipal report, thus precluding rogue developers who could work outside of the planning municipality. The concern is that some municipalities do not have a redevelopment vision; their agenda is simply developing whatever comes to them.

Ms Hoffman advised the Committee that OSG has increased their planning staff to promote more direct support to municipal planning. The plan endorsement and cross-acceptance processes are part of that effort. She suggested municipalities might find value in such opportunities as the Planning Institute for Mayors, or requesting assistance from academic institutions. Rutgers Bloustein School and NJIT Department of Agriculture have conducted planning studios, using a municipality as the focus.

Mr. Simmons recommended that a white paper explaining the process of navigating the steps of the brownfields redevelopment process be written. Ms Hoffman stated that there were already plans to do this and include it in the next edition of the Brownfields Redevelopment Resource Kit.

In wrapping up the UEZ discussion, Ms Healey questioned if this was not necessarily a change, but just information that describes different ways to go about seeking incentives for redevelopment.

Soil Remediation Standards: Michael McGuinness of NAIOP explained that a group from his organization had been holding meetings with Department of Environmental Protection Assistant Commissioner, Joe Seebode, and his staff, to explain their proposal. These recommendations are included in the General Alternate Remediation Standard Modified Approval (GAMA), a copy of which was provided to the Committee. It calls for the abandonment of the Department of Environmental Protection's model used currently, and rather than come up with a new site-specific remediation standard for each separate circumstance, a table of pre-approved values would be developed. This table would be based on the proposed project region, and a co-efficient for that region would be used in the soil remediation shared formula. This table would be prepared under the oversight of an advisory group composed of a range of experts and stakeholders. Mr. McGuinness stated that the DEP already had large amounts of data on soils, hydrology, geology, for calculating the standards, so the amount of new data needed for the table would be minimal.

Mr. McGuinness said that the DEP representatives indicated that, although they had some concerns about working in sufficient safeguards for public notice and/or possible environmental justice issues. They were generally in accord with a number of the suggestions. Mr. McGuinness is awaiting follow-up from Mr. Seebode. Other interest groups and legislators are interested in seeing these modifications included in the standards, as well. Ms Smith asked about timing of the rule changes. Mr. McGuinness said a formal rule proposal could be ready by May or June.

Chairperson Healey asked if the input data would change over time. Mr. McGuinness responded that as data changes, the table might change, and this may impact the public notice/environmental justice issue.

Mr. Gimello said that the matrix could be enormous, depending on the type of ground water, soil type, etc. It would also have to be part of the 'rules' package. He felt that the GIS database with the rapid criteria might serve as the new default standards.

Dr. Hoffman added that another issue that had been raised by several stakeholder groups was the notion of consecutive layering of conservative assumptions about risk in determining standards. A study

has been made to test how conservative assumptions play out in actual situations. Mike McGuinness said information on that was not included in their discussions with DEP.

Expansion of Task Force Membership: The process by which members can be added to the Task force needs to be determined and more discussion on new member categories should be held. The Departments of Treasury and Labor were suggested, and for balance, public representatives of real estate, insurance and technology were suggested. Mr. Simmons suggested the NJ Department of Health as a candidate for membership on the Task Force, and Chairman Healey restated the addition of the Department of Labor and Treasury, as well as a representative of the real estate community. Dr. Hoffman stated that she had been advised by DCA legislative personnel that the Task Force needs to clarify, recommend, or vote upon the issue. Then legislation has to be written, either by DCA or the Task Force, and sponsored by a state Legislator. Chairman Healey recommended adding the members in stages. She recommended that this be a gradual process, with one or two new members added in at a time.

Ms Hammel described the method used by the NJ Department of Agriculture. The bill is sent through their liaison at the front office, and they let the appropriate political intermediary decide on the sponsor. It appears that when the front office selects the sponsor, the bill moves much more quickly. Dr. Hoffman will check to determine if the Treasury and Labor Departments are, in fact, interested in becoming members of the Task Force.

Review of Draft Report to Governor: Leah Healey submitted a draft report to the Committee. Dr. Hoffman added that, as brought up at the BRIT meeting, part of the report should include data from the brownfields programs in various agencies.

Status of Bills:

- **S682/S1866:** Provides exemption from cleanup liability at Superfund sites to certain persons
The bill passed the Assembly and both Houses on February 24 and approved on March 21.
- **S277:** Revises laws concerning financial assistance for contaminated site remediation
This bill has moved to the Assembly, but because of budget issues, they will not address it until the first week of May.
- **A3650/S2157:** Repeals law expediting certain State permits
Ms Healey said that, since the Policy & Legislative Committee has not taken a formal position on this bill, the Committee should contact the three primary sponsors prior to the next full Task Force to understand the bill more thoroughly.
- **A2262:** Provides protection from contribution suits to parties who settle under the Spill Act.
Ms Healey said that this bill is complex. She will speak with the sponsors and report back to the committee.
- **A2277:** Requires Port Authority of New York and New Jersey to take action concerning brownfield sites and other underutilized sites in New Jersey for warehousing and other facilities in port district.
Attempts have been made to reach the sponsors to understand this bill. In the meantime, Dr. Hoffman suggested that the Task Force must request an update from the Portfield Study managers at EDA and the NY/NJ Port Authority.
- **A1633:** Requires inventory of brownfields in the State and annual progress reports by the Brownfields Redevelopment Task Force; appropriates \$285,000.
The Data & Marketing Committee is sending a letter of support to the Senate Budget Committee Chair, Senator Wayne Bryant. It is anticipated that the bill will be brought up following the State budget hearings.

VI. REPORTS—

Brownfields Program Report

Frances Hoffman, Brownfields Program Director, Office of Smart Growth, DCA

- **Approach to Brownfields Redevelopment in Planning Areas 3,4,5-Highlands & Pinelands**
Dr. Hoffman stated that, in discussions at a recent BRIT meeting, each agency is dealing with the issue of Brownfields Redevelopment in various parts of the state a little differently. It is an issue that needs to be raised with regard to Planning Areas 3, 4, 5, and with the Pinelands Commission and the Highlands Commission. Dr. Hoffman suggested that the issue be discussed with the

State Planning Commission as well.

Ms Dudley said that Candy Ashman, who is very active with the State Planning Commission, has carefully reread the new state statutes and regulations and would most likely be willing to share those results with those engaged in discussion this issue. Dr. Hoffman will report back to the Task Force on progress in this area..

- *Alternatives for non-discharging entities involved as developers or owners in cleaning up and reusing a property.*

Currently when a non-discharging entity steps forward to assume aspects of cleanup from a responsible party already engaged in cleanup under an administrative consent order [ACO] with DEP, that party is typically required to enter into an ACO as well. This practice may not be the most effective to promote and regulate the cleanup and redevelopment of the property. At a meeting last week, Dr. Hoffman said that representatives of DEP, EDA, Commerce and DCA met to resume talks on this issue of statutory and regulatory requirements, and DEP agreed to forward a list of applicable regulations and statutes to this ad hoc group. The group will look for areas that might be modified to more effectively promote clean-up and redevelopment of brownfields..

This ad hoc group is looking for case examples in situations where there is agreement among the responsible party, the new developer or owner, and the municipality on how to clean up and redevelop a project. Such projects would serve as test cases to consider new forms of oversight by DEP. If any of the Task Force members know of examples where there is concurrence, they were asked to advise Dr. Hoffman.

- *Award Ceremony for C-M.A.P. Participants*

In discussing the award ceremony for the C-M.A.P. recipients, Chairman Healey suggested that the Policy & Legislative Committee should initiate the process, i.e., deciding on the designees, coordinate writing the press release, radio announcement/panel, meet with public/agency members, legislative members, coordination of mass mailings, etc. Dr. Hoffman advised the Committee to set the date for a time when students are still around.

VII. COMMENTS FROM COMMITTEE MEMBERS—

None

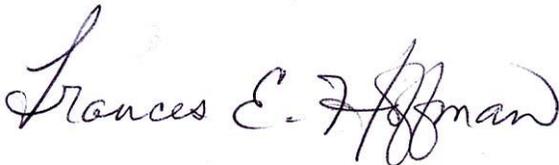
VIII. PUBLIC COMMENTS—

None

IX. ADJOURNMENT—

Michelle Hammel moved that the meeting be adjourned at 12:21 p.m., and Rose Smith seconded.

Respectfully submitted,



Frances E. Hoffman
Secretary, New Jersey Brownfields Redevelopment Task Force

Prepared by Cynthia Weiser
04/29/05